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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/828,560	03/31/1997	JOHN M. EGNOR	3398T	5182
<div>JIM ZEGER 801 NORTH PITT STREET SUITE 108 ALEXANDRIA, VA 22314</div>				
			<div>EXAMINER KING, BRADLEY T</div>	
			<div>ART UNIT 3683</div>	<div>PAPER NUMBER</div>
			<div>MAIL DATE 10/23/2007</div>	<div>DELIVERY MODE PAPER</div>

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

### Application No.

08/828,560

### Applicant(s)

EGNOR, JOHN M.

### Examiner

Bradley T. King

### Art Unit

3683

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 May 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 13-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 13-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

Applicant's request to reopen prosecution under 37 C.F.R. 41.50(b) is acknowledged and the response of 5/14/2007 has been entered. Regarding claim 18, it is noted that claim 18 is a product claim. It is maintained that the process claims claim 13 depends from fail to provide any structural difference or distinction over the previously rejected and affirmed product claims. As claim 18 is broader than the affirmed product claims, additional grounds of rejections have been set forth below.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 13-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 13 recites "when it is removed and returned for servicing". It is not clear what is encompassed by this recitation. It is also unclear what elements "its" refers to.

Claim 13 recites "within acceptable tolerances". The disclosure fails to identify what is required by this recitation, nor is its scope readily apparent to one of ordinary skill in the art.

Claim 13 recites two instances of "a wheel". It is not clear if they are the same or different wheels.

Claim 13 recites "when said wheeled commercial kitchen equipment is removed for service, it is ensured each time that the commercial kitchen equipment will be returned to said predetermined location." It is not clear what this limitation is intended to convey. It is also not clear if this limitation is intended to be part of the process steps.

Claim 14 recites "guiding wheeled commercial kitchen equipment". It is not clear if the equipment is the same as recited in claim 13, or additional equipment.

Claim 15 recites "said wheel ramp stop". There is insufficient antecedent basis for this limitation in the claims.

Claim 16 recites "when it is removed and returned for servicing". It is not clear what is encompassed by this recitation. It is also unclear what elements "its" refers to.

Claim 16 recites "within acceptable tolerances". The disclosure fails to identify what is required by this recitation, nor is its scope readily apparent to one of ordinary skill in the art.

Claim 16 recites two instances of "a wheel". It is not clear if they are the same or different wheels.

Claim 16 recites "when said wheeled commercial kitchen equipment is removed for service, it is ensured each time that the commercial kitchen equipment will be returned to said predetermined location." It is not clear what this limitation is intended to convey. It is also not clear if this limitation is intended to be part of the process steps.

Claim 17 recites "when it is removed and returned for servicing". It is not clear what is encompassed by this recitation. It is also unclear what elements "its" refers to.

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Claim 17 recites "within acceptable tolerances". The disclosure fails to identify what is required by this recitation, nor is its scope readily apparent to one of ordinary skill in the art.

Claim 17 recites "when said wheeled commercial kitchen equipment is removed for service, it is ensured each time that the commercial kitchen equipment will be returned to said predetermined location." It is not clear what this limitation is intended to convey. It is also not clear if this limitation is intended to be part of the process steps.

Claim 18 recites "for carrying out the method defined in one of claims" which is inconsistent with the parent claims as they define a process, not a method.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 18 is rejected under 35 U.S.C. 102(b) as being anticipated by Rapp (US# 2870872). Rapp discloses a ramped stop capable of carrying out the method of claims 13-17. The method steps fail to convey any significant structure to the recited ramp stop element.

Claim 18 is rejected under 35 U.S.C. 102(b) as being anticipated by Gregg (US# 2441627). Gregg discloses a ramped stop capable of carrying out the method of claims 13-17.

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Claim 18 is rejected under 35 U.S.C. 102(b) as being anticipated by Wilson et al (US# 2007514). Wilson discloses a ramped stop capable of carrying out the method of claims 13-17.

Regarding claim 18, it is also maintained that claim 18 is a product claim. The method claims it depends from fail to provide any structural difference or distinction over the rejected product claims, affirmed by the board decision of 3/30/2007.

### ***Response to Arguments***

Applicant's arguments filed 5/14/2007 have been fully considered but they are not persuasive.

Note the 112 2<sup>nd</sup> rejections above. Regarding the affidavits, see the Board Decision of 3/30/2007.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bradley T. King whose telephone number is (571) 272-7117. The examiner can normally be reached on 11:00-7:30 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Siconolfi can be reached on (571) 272-7124. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

 10/20/07  
Bradley T King  
Primary Examiner  
Art Unit 3683

BTK